Goodrich v. *Dobson*, 43 Conn. 576. A's claim is, nevertheless, absolute, and must be paid by cash or set-off; hence it is a part of his assets to which the general creditors are entitled. It cannot be said that a claim to which there is no defense is of no value merely because the debtor may invoke his right to set-off. On the other hand, it may be urged that A, by receiving the money, fraudulently permitted B to destroy his set-off and therefore held it in trust, as when a bankrupt receives goods knowing of his insolvency. In the latter case, however, the bankruptcy would be a good ground for refusal to deliver, while in the present case, again applying the same reasoning, A had an absolute right to receive payment, either by cash or set-off, which should be devoted to the interests of the general creditors.

BANKRUPTCY — PRIORITY OF CLAIMS — INFANT'S CLAIM AFTER AVOIDANCE OF CONTRACT. — An infant obtained a bill of sale from a bankrupt to secure advances previously made, and after his claim of preference by virtue of such bill of sale had been disallowed, he elected to avoid his contract and claimed the whole amount advanced, on the ground of his infancy. *Held*, that he is entitled only to claim as a general creditor. *In re Huntenberg*, 153 Fed. 768 (Dist. Ct., E. D. N. Y.).

A creditor who has received a preference and has been compelled by judgment to surrender it, may nevertheless prove his claim against the estate. *Keppel* v. *Tiffin Savings Bank*, 197 U. S. 356; see 19 HARV. L. REV. 59. And the avoidance of his contract by an infant who has advanced money is effective only to constitute him a creditor for the amount, which he may immediately recover in assumpsit. See *Robinson* v. *Weeks*, 56 Me. 102. His claim, in such an event, does not appear superior to that of the ordinary creditor. Consequently, as infancy is not a ground for priority in payment from the estate under § 64 of the Bankruptcy Act, which provides for priorities, the result reached in the present case seems eminently sound.

BANKRUPTCY — PROVABLE CLAIMS — PROOF AFTER TERMINATION OF COLLATERAL LITIGATION. — An attachment suit pending at the time of bankruptcy against the bankrupt at the suit of a creditor did not terminate within a year and thirty days after the adjudication. *Held*, that the creditor is entitled to prove his claim after the termination of the suit. *In re Baird*, 154 Fed. 215 (Dist. Ct., E. D. Pa.).

§ 57 *n* of the Bankruptcy Act of 1898 provides that "claims shall not be proved against a bankrupt estate subsequent to one year after the adjudication; or if they are liquidated by litigation and the final judgment therein is rendered within thirty days before or after the expiration of such time, then within sixty days after the rendition of such judgment." The court in the present case expressly defers to the authority of a recent case which interpreted this exception clause to mean, "if . . . the final judgment therein is rendered within thirty days before the expiration of such time, or at any time thereafter." *Powell* v. *Leavitt*, 150 Fed. 89. This departure from the explicit and unambiguous terms of an exception clause, evidently intended to be prohibitory and to ensure a speedy settlement of the estate, is in violation of the first principles of statutory construction requiring strict interpretation of such clauses. See *U. S.* v. *Dickson*, 15 Pet. (U. S.) 141, 165. If provision is needed for such a contingency as the case presents, it is a matter for legislative discretion, not for extraordinary judicial license.

CARRIERS — CONNECTING LINES — THROUGH RATES. — Goods were shipped on a through bill of lading over connecting railroads which did not give joint through rates. While the goods were in transit over the first railroad, the second lowered its rates. *Held*, that the shipper must pay the combined rate existing at the time he shipped and cannot take advantage of the reduction. *In the Matter of Through Routes and Through Rates*, 12 Interst. C. Rep. 190.

When two railroads have agreed to establish through routes between points in separate states, the charge they make is to be regarded as a unit. See *Brady* v. *Penn. Ry. Co.*, 2 Interst. C. Rep. 78. Recognition of a through bill of

lading by connecting carriers puts them in the same position as if they had expressly agreed to establish through routes. *Cincinnati, etc., Ry. Co.* v. *Interstate Com. Com.*, 162 U. S. 184; see *Louisville, etc., Ry. Co.* v. *Behlmer*, 175 U. S. 648, 662. This ruling of the Interstate Commerce Commissioners applies to the class of routes thus created the rule that the sum of the charges of each carrier must be a unit corresponding to a single established joint rate. Their holding, that the rate as fixed at the time of shipment is unalterable by the second carrier, will tend to relieve the shipper from unexpected increase in freight charges, and furthermore, to remove an uncertainty that lately has much troubled shippers and carriers when similar changes in rates have been made.

CARRIERS — DUTY TO TRANSPORT AND DELIVER — REMOVAL OF SPUR TRACK WITHOUT NOTICE. — The defendant, as part of its public business, operated a spur track, over which it had carried wood for the plaintiff. This operation was not required by statute or charter. The plaintiff had wood ready for transportation, some of which was already in the custody of the defendant when the latter removed the track without notice. *Held*, that the plaintiff can recover for the damage caused by the failure to give reasonable notice of the removal. *Durden* v. *Southern Ry. Co.*, 58 S. E. 299 (Ga., Ct. App.).

The defendant's duties were only those imposed by the common law, and its right to remove the track seems well established. *Jones* v. *Newport News, etc., Co.*, 65 Fed. 736. But a common carrier is bound to carry according to its profession. *Pickford* v. *Grand Junction Ry.*, 8 M. & W. 372. It is liable for damages caused by the publication of a time-table it knows to be inaccurate. *Denton* v. *G. N. Ry.*, 5 E & B. 860. And the same principle that applies to representations published in a time-table seems applicable to representations of a carrier made public by its acts. Consequently, if the defendant, while it maintained the track, had refused without notice or valid reason to carry wood for the plaintiff, it would have been liable for the resulting damage. *Streeter* v. *Horlock*, 7 Moore C. P. 283. Usually the carrier is not liable unless the goods have been tendered. *Little Rock, etc., Ry.* v. *Conaster*, 61 Ark. 560. But this does not apply where part of the goods have been tendered. *Houston, etc., Ry.* v. *Campbell*, 91 Tex. 551. Therefore, in the present case, by failing to give notice before removing the siding, the railroad refused to carry a tendered shipment according to its profession and should be liable for the resulting damage.

CONFLICT OF LAWS — OBLIGATIONS EX DELICTO — WHETHER LAW OF PLACE OF DEATH OR OF INJURY GOVERNS ACTION FOR DEATH. — The Pennsylvania statute gave the widow a right of action for death by wrongful act. The New Jersey statute vested such a right in the personal representative. A widow whose husband had died in Pennsylvania from injuries received in New Jersey, through the negligence of the defendant, brought suit. *Held*, that she may recover under the Pennsylvania statute. *Hoedmacher* v. *Lehigh Valley Ry. Co.*, 66 Atl. 975 (Pa.).

The fatal impact is somewhat arbitrarily selected as the element in murder giving criminal jurisdiction, regardless of the place of death. *State* v. *Gessert*, 21 Minn. 369. Likewise, where death results from negligent injury, it has been assumed that the cause of action arises where the injury, and not where the death, takes place. *Slater* v. *Mexican Nat'l Ry. Co.*, 194 U. S. 120, 127. If the statutes of the place of injury give no action, recovery is refused even if a remedial statute exists at the place of death. *De Harn* v. *Mexican Nat'l Ry. Co.*, 86 Tex. 68; *Rudiger* v. *Chicago, etc., Ry. Co.*, 94 Wis. 191. It is true that such statutes create a new right of action, to the accrual of which death is a condition precedent. See 15 HARV. L. REV. 854. The decisions cited, however, lead to the conclusion that while the prosecution for murder or civil action for death cannot be maintained until death occurs, the real cause of action is the infliction of the injury. The results of the injury merely determine the character of the action. But the law of the place where the cause of action accrues should govern, hence the present decision seems unsound.

CONFLICT OF LAWS — TESTAMENTARY SUCCESSION — ADMINISTRATION OF TRUSTS OF PERSONALTY CREATED BY WILL. — An Illinois testator be-